

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**GERALD WALKER, also known as
Jerard Walker, also known as
Jacaun Steele,**

Petitioner,

v.

**9:02-CV-790
(FJS/VEB)**

JAMES CONWAY,

Respondent.

APPEARANCES

OF COUNSEL

GERALD WALKER

98-A-2082

Attica Correctional Facility

P.O. Box 149

Attica, New York 14011

Petitioner *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol

Albany, New York

Attorneys for Respondent

RISA L. VIGLUCCI, AAG

SCULLIN, Senior Judge

ORDER

In a Report and Recommendation dated May 7, 2007, Magistrate Judge Bianchini recommended that this Court deny Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Moreover, Magistrate Judge Bianchini recommended that, "[b]ecause Petitioner has failed to make a substantial showing of a denial of a constitutional right," the Court not issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2). *See* Dkt. No. 16. Petitioner

filed objections to those recommendations. *See* Dkt. No. 20.

Petitioner raises objections to Magistrate Judge Bianchini's legal conclusions with respect to each of his grounds for relief. However, a review of the record demonstrates that Petitioner's objections are without merit and that Magistrate Judge Bianchini correctly applied the legal standards applicable to the Court's review of a habeas petition under the Antiterrorism and Effective Death Penalty Act of 1996. Accordingly, the Court hereby

ORDERS that Magistrate Judge Bianchini's Report and Recommendation is **ADOPTED IN ITS ENTIRETY for the reasons stated therein**; and the Court further

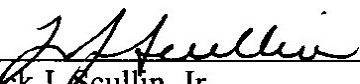
ORDERS that Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED AND DISMISSED**; and the Court further

ORDERS that, because Petitioner has failed to make a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), a certificate of appealability will not issue;¹ and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Respondent and close this case.

IT IS SO ORDERED.

Dated: March 31, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge

¹ The Court advised Petitioner that he may not take an appeal to the Court of Appeals "from – (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court . . . [u]nless a circuit justice or judge issues a certificate of appealability" 28 U.S.C. § 2253(c)(1).